

### **REMARKS/ARGUMENTS**

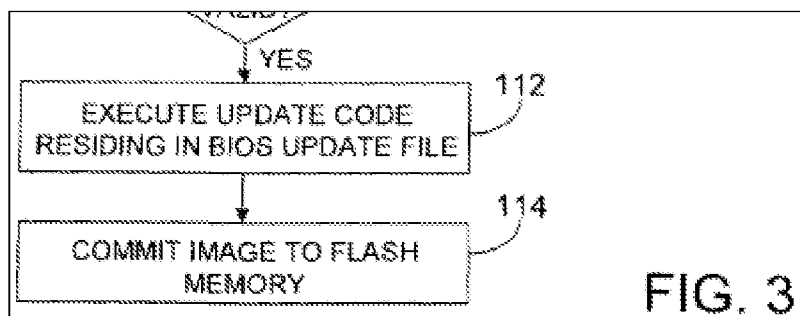
The Final Office Action dated November 22, 2006 (the Action) has been considered and these remarks are responsive thereto. Presently, claims 1-41 are now pending in this application, although all claims stand rejected. By entry of this amendment, claim 39 is cancelled without prejudice or disclaimer. In addition, claims 1-6, 8-10, 14, 16, 24, 26-29, and 38 are amended. No new matter has been added. Following entry of this amendment, claims 1-38, 40, and 41 will be pending. For the reasons set forth below, the applicants respectfully request reconsideration and immediate allowance of this application.

#### **Claim Rejections under 35 U.S.C. § 102(e)**

The Action rejected claims 1-41 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,017,040, to Singer *et al.* (*Singer*). The applicants respectfully submit that *Singer* does not teach, suggest, or describe each and every recitation of these claims. In particular, with respect to amended independent claim 1, *Singer* does not teach, suggest, or describe:

following copying the image file to the non-volatile memory device in the computer system, updating only the non-essential region stored in the non-volatile memory device to update the optional program code for the computer system and not updating the essential region stored in the non-volatile memory device

In rejecting claim 1, the Action argues that Singer teaches the above limitations. The Action further argues that “adding, modifying and/or removing is completed after the BIOS update file 50 (image file) is copied to the flash memory (memory device).” However, the Action misstates the teachings of Singer. FIG. 3 of Singer clearly shows that the update code is executed prior to committing the image to Flash memory. The relevant portion of FIG. 3 of Singer is reproduced below.



In describing operation 114, Singer states, “When the update code terminates execution the resultant modified signed data portion is committed as a trusted image to a flash memory of the third party’s system.” To summarize, Singer modifies the signed data 60 storing the entire BIOS update data (Col. 2, ll. 43-45), and then commits the modified signed data 60 as an image to the flash memory. This is precisely what is described in the Background of the present application (Page 2, ll. 3-13). Unlike Singer, the embodiment of claim 1 first copies the image file to the non-volatile memory device, and then updates only the non-essential region, leaving the essential region untouched in the non-volatile memory device.

Moreover, Singer does not teach or suggest other limitations of independent claim 1 including, “building an image file, the image file comprising an essential region ... and a non-essential region ... [and] copying the image file to the non-volatile memory device.” The Action asserts that the image file of claim 1 is taught by the BIOS update file 50 of Singer. A BIOS update file does not teach or suggest an image file. Singer teaches that the update file 50 includes update code 62, which “uses the BIOS update file 50 to generate an image that is written ( flashed) into the flash memory modules” (Col. 3, ll. 28-31). Therefore, although Singer teaches a BIOS update file 50 being used to generate the image, it is not the same as the image itself. Indeed, in describing operation 114, as discussed above, Singer notes that only the signed data portion 60 is committed to flash memory. That being the case, the signed data portion 60 does not include the unsigned data portion 56, which the Action improperly asserts is the essential region of claim 1. Following this reasoning, the unsigned data portion 56 of Singer is never copied to the non-volatile memory, and therefore cannot teach or suggest the essential region of claim 1. Accordingly, *Singer* does not teach, suggest, or describe every element of amended independent claim 1. The applicants therefore submit that this claim is in condition for immediate allowance.

The rejections of claims 2-13, which depend from claim 1, should also be withdrawn for the same reasons and because these claims include recitations not taught or suggested by Singer. For example, amended claim 3 recites “reserving at least one of a plurality of sectors in the non-volatile memory device for storing exclusively the one or more non-essential blocks.” The Action asserts that flash memory modules 28 of Singer Fig. 1 constitute sectors. Even if this comparison was accurate, Singer does not teach or suggest reserving at least one of the flash

memory modules for storing the one or more non-essential blocks. This argument, originally made in a previous Amendment, was not addressed by the Action.

Amended independent claims 14 and 24 include recitations similar to claim 1, and they are allowable for the same reasons set forth with regard to claim 1, in addition to these claims having unique recitations not taught or suggested by *Singer*. Moreover, claims 15-23 and 25-37, which depend ultimately from claims 14 or 24, are allowable for the same reasons as those set forth above, and also because they include recitations not taught or suggested by *Singer*. The applicants respectfully request that the rejections of these claims be withdrawn and the claims allowed.

With regard to amended independent claim 38, *Singer* does not teach or suggest the following limitations:

if the at least one module is not found in the non-essential region, then searching an essential region in the non-volatile memory device for the at least one module, wherein the at least one module in the essential region contains a current version of the program code for the computer system

The Action argues the above limitations are taught by the update command list 66 of *Singer*. The update command list 66 is part of the unsigned data portion 56, which the Action asserts teaches the essential region of claim 38. However, as noted above with respect to independent claim 1, the unsigned data portion 56 is never copied to the non-volatile memory device in *Singer*. Therefore, the update command list 66 cannot be sought in an essential region in the non-volatile memory device because the update command list 66 is not stored in the non-volatile memory device. Therefore, *Singer* does not teach, suggest, or disclose every element of independent claim 38, and the applicants respectfully assert that the claim is in condition for allowance and request that the rejection be withdrawn.

With regard to claims 40 and 41, which depend from claim 38, these claims are allowable for the same reasons as claim 38, and because they include recitations not taught or suggested by *Singer*. The applicants therefore request that the rejections of these claims be withdrawn and the claims allowed.

**CONCLUSION**

In view of the foregoing amendment and remarks, the applicants respectfully submit that all of the pending claims in the present application are in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact the applicants' undersigned attorney at the number below.

Respectfully submitted,

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